

BEFORE THE ARBITRATOR

---

In the Matter of the Arbitration of a Dispute Between

**LOCAL 1075, AFSCME, AFL-CIO**

and

**CITY OF WISCONSIN RAPIDS**

Case 126

No. 57357

MA-10599

*(Smoking Policy Grievance)*

---

Appearances:

**Mr. Jeffrey J. Wickland**, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, on behalf of the Union.

**Mr. James Jansky**, Personnel Director, on behalf of the City.

**ARBITRATION AWARD**

The above-captioned parties, herein “Union” and “City”, are signatories to a collective bargaining agreement providing for final and binding arbitration. Pursuant thereto, hearing was held in Wisconsin Rapids, Wisconsin, on May 25, 1999. There, both parties agreed that I should issue a “bench” decision which this Award augments.

**AWARD**

Based upon the entire record and the arguments of the parties, I issue the following Award.

1. The City properly promulgated its original Policy Statement entitled “Smoking in City Buildings”, on January 9, 1990.

2. The City properly promulgated its revised non-smoking policy as it related to all City buildings at its February 9, 1993, and April 13, 1993, Common Council meetings.

3. The City properly promulgated its no-smoking policy relating to City swimming pools at its July 8, 1997, Common Council meeting.

4. The City can ban smoking in any City vehicles which are self-enclosed provided, however, that employes who expect to drive and/or to be in their enclosed vehicles an hour or more can smoke in their vehicles during that time if:

- a. they are alone and/or
- b. if all fellow employe[s] in those vehicles are smokers.

5. If a fellow employe is not a smoker, there shall be no smoking under any circumstances in any enclosed City vehicles even if non-smokers have no objection to smoking.

6. Any employes violating these prohibitions shall be subject to the progressive disciplinary steps set forth in Rule 8 of the contract.

7. All employes who smoke in enclosed City vehicles shall purchase with their own money air fresheners which are to be kept permanently in those vehicles.

8. Employes can smoke in any City vehicles that are not enclosed and employes who drive any enclosed vehicles can smoke before and/or after they drive.

Dated at Madison, Wisconsin this 28th day of May, 1999.

Amedeo Greco /s/

Amedeo Greco, Arbitrator

AAG/gjc  
5870